

1
2
3
4
5
6
7
8 IN THE UNITED STATES DISTRICT COURT
9 FOR THE EASTERN DISTRICT OF CALIFORNIA

10 CURTIS J. WILLIAMS,

11 Plaintiff,

No. CIV S-05-0164 DFL EFB P

12 vs.

13 R. W. SANDHAM, et al.,

14 Defendants.

ORDER

15 _____/
16 Plaintiff, a state prisoner proceeding pro se, has filed this civil rights action seeking relief
17 under 42 U.S.C. § 1983. The matter was referred to a United States Magistrate Judge pursuant to
18 28 U.S.C. § 636(b)(1)(B) and Local General Order No. 262.

19 On February 23, 2007, the magistrate judge filed findings and recommendations herein
20 which were served on all parties and which contained notice to all parties that any objections to
21 the findings and recommendations were to be filed within fourteen days. Plaintiff has filed
22 objections to the findings and recommendations.

23 In accordance with the provisions of 28 U.S.C. § 636(b)(1)(C) and Local Rule 72-304,
24 this court has conducted a de novo review of this case. Having carefully reviewed the entire file,
25 the court adopts the findings and recommendations as to plaintiff's claim that defendants violated
26 his Eighth Amendment rights by denying him a corneal transplant. As to this claim, the court

1 finds the findings and recommendations to be supported by the record and by proper analysis.

2 For the following reasons, the court declines to adopt the findings and recommendations
3 as to plaintiff's claim that defendants violated his Eighth Amendment rights by denying him the
4 Muracel 1% eye drops.

5 First, plaintiff states that he had complained to defendants that he began to suffer from
6 headaches and dizziness only after defendants prescribed him Muracel 0.5%. Plaintiff states he
7 always used Muracel 1% before he was transferred to Concoran State Prison.

8 Second, plaintiff has provided evidence that suggests defendants were aware that Muracel
9 0.5% was inadequate. Defendants took plaintiff to see an eye specialist, who prescribed plaintiff
10 eye drops even stronger than Muracel 1%: Muracel 1.28%. A reasonable jury may conclude that
11 Dr. Rohlfsing, Dr. Steen, and Dr. Mangis, plaintiff's treating physicians, knew of the eye
12 specialist's finding because it was in plaintiff's medical file. A reasonable jury may conclude
13 that Dr. Sandham, the chief medical officer, knew of the finding because plaintiff claimed in his
14 prison administrative appeal that his treating physicians were not giving him the eye drops the
15 specialist prescribed, and Dr. Sandham reviewed that appeal.

16 Finally, plaintiff has provided evidence that Dr. Rohlfsing may have intentionally denied
17 plaintiff the requisite strength eye drops. According to plaintiff, Dr. Rohlfsing told plaintiff that
18 he could not dispense Muracel 1% because the prison pharmacy did not keep it in stock. But
19 plaintiff has provided evidence that Dr. Rohlfsing could have obtained the eye drops from an
20 outside pharmacy and that Dr. Rohlfsing denied a request to do so.

21 Plaintiff's showing is sufficient to raise a genuine dispute of material fact regarding
22 whether defendants were deliberately indifferent to his medical needs when they prescribed him
23 less potent eye drops.

24 The court also finds that plaintiff attempts to state a § 1983 claim based on Dr. Mangis's
25 and Dr. Sandham's allegedly improper handling and disposition of his case during the prison
26 appeals process. The magistrate judge did not address this claim in the findings and

1 recommendations. Plaintiff, however, cannot challenge the processing of his prison
2 administrative appeal under § 1983 because “inmates lack a separate constitutional entitlement to
3 a specific inmate grievance procedure.” Ramirez v. Galazau, 334 F.3d 850, 860 (9th Cir. 2003).
4 Therefore, the court grants defendants summary judgment as to plaintiff’s § 1983 claim
5 challenging the resolution of his case during the prison appeals process.

6 Accordingly, IT IS HEREBY ORDERED that:

7 1 The findings and recommendations filed February 23, 2007, are adopted as to plaintiff’s
8 claim that defendants violated his Eighth Amendment rights by denying him a corneal transplant;

9 2. The June 23, 2006 motion for summary judgment filed by Drs. Mangis, Sandham, and
10 Rohlffing is granted as to: (1) plaintiff’s claim that defendants violated his Eighth Amendment
11 rights by denying him a corneal transplant; and (2) plaintiff’s claim that Drs. Mangis and
12 Sandham mishandled his prison administrative appeal;

13 3. The June 21, 2006, motion for summary judgment filed by defendant Dr. Steen is
14 granted as to plaintiff’s claim that defendants violated his Eighth Amendment rights by denying
15 him a corneal transplant;

16 4. Defendants’ motions for summary judgment are denied as to plaintiff’s claim that
17 defendants violated his Eighth Amendment rights by denying him Muracel 1%.

18 5. Plaintiff’s cross-motion for summary judgment is denied.
19

20 DATED: March 28, 2007
21

22 /s/ David F. Levi

23 UNITED STATES DISTRICT JUDGE
24
25
26